



GABRIEL P. HARVIS
BAREE N. FETT

January 15, 2016

Honorable Lorna G. Schofield
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *John Walston v. City of New York, et al.*, 15 CV 5203 (LGS)

Dear Judge Schofield:

I am a member of Harvis & Fett, counsel for Mr. John Walston. I write to respectfully request: 1) pursuant to the Plan for Certain § 1983 Cases Against the City of New York ("the Plan"), Section 9, that this case be exempted from the Plan for defendants' failure to comply with Plan deadlines; 2) that an initial conference be convened at a date and time convenient to the Court;¹ and 3) that an expedited discovery schedule be imposed in light of the delays encountered thus far in this matter. Plaintiff further requests that the Court schedule an informal conference, pursuant to Local Rule 37.2. Defendants consent to plaintiff's request for an initial conference.

By way of brief background, this case challenges Mr. Walston's arrest on July 25, 2014 inside of a public park in the Bronx. Plaintiff contends that he was lawfully inside of the park sitting on a bench when defendants approached him and illegally searched and arrested him. Mr. Walston was arraigned and bail was imposed. Unable to make bail, Mr. Walston was held on Rikers Island for approximately six days before being released. All charges against him were dismissed on or about December 2, 2014.

¹The undersigned will be engaged on trial in that matter of *Holmes v. City of New York*, 14 CV 10232, before the Honorable Katherine Forrest commencing February 8, 2016.

The instant action was filed and designated for inclusion in the Plan on July 3, 2015. Following exchange of the initial disclosures by the parties in October 2015, defendants failed to produce any additional materials. In good faith, the undersigned waited for the overdue materials and mediation was adjourned on several occasions so that Plan discovery obligations could be met and a meaningful mediation could take place. After numerous phone conferences with the mediator and defense counsel over the last several months where the undersigned was given assurances of an impending production by defendants, I was advised for the first time last night that this matter was being designated a “no-pay” case and defendants would not be participating in the mediation process.

Under these circumstances, plaintiff respectfully requests that the Court exempt this case from the Plan; that an initial conference be convened at a date and time convenient to the Court; and that an expedited discovery schedule be imposed.

Thank you for your attention to these matters.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Baree N. Fett', with a stylized flourish at the end.

Baree N. Fett

cc: Elizabeth Bardauskis, Esq. (by ECF)
Assigned Mediator (by e-mail)
Mediation Office (by e-mail)